

Farm Service Agency, USDA

§ 765.301

§ 765.252 Lease of security.

(a) *Real estate leases.* The borrower may lease real estate security provided the following conditions are met:

(1) The Agency approves the borrower's request;

(2) The term of consecutive leases does not exceed 3 years, or 5 years if the borrower and the lessee are related by blood or marriage;

(3) The lease does not contain an option to purchase; and

(4) The requirements of § 765.253 have been met.

(b) *Mineral leases.* The borrower must request Agency consent to lease any mineral rights used as security for FLP loans.

(1) For loans secured by real estate before December 23, 1985, the Agency has a security interest in any mineral rights the borrower has on the real estate pledged as collateral.

(2) For loans secured by real estate on or after December 23, 1985, the Agency has a security interest in any mineral rights if the mineral rights were included in an appraisal.

(3) The Agency may consent to a mineral lease if the proposed use of the leased rights will not adversely affect either:

(i) The Agency's security interest; or
(ii) Compliance with any applicable environmental requirements of subpart G of 7 CFR part 1940.

(c) *Lease of chattel security.* Lease of chattel security is not authorized.

(d) *Lease proceeds.* Lease proceeds are considered normal income security and may be used in accordance with § 765.303.

(e) *Lease of allotments.* (1) The Agency will not approve any crop allotment lease that will adversely affect its security interest in the allotment.

(2) The borrower must assign all rental proceeds from an allotment lease to the Agency.

§ 765.253 Ceasing to operate security.

If the borrower requests Agency consent to cease operating the security or if the Agency discovers that the borrower is failing to operate the security, the Agency will give consent if:

(a) Such action is in the Agency's best interests;

(b) The borrower is unable to graduate;

(c) The borrower is not ineligible as a result of disqualification for Federal crop insurance violation according to 7 CFR part 718;

(d) The borrower has leased the security according to § 765.252(a)(2); and

(e) Any one of the following conditions is met:

(1) The borrower is involved in the day-to-day operational activities, management decisions, costs and returns of the farming operation, and will continue to reside in the immediate farming community for reasonable management and operation involvement;

(2) The borrower's failure to operate the security is due to age or poor health, and the borrower continues to reside in the immediate farming community for reasonable management and operation involvement; or

(3) The borrower's failure to operate the security is beyond the borrower's control, and the borrower will resume the farming operation within 3 years.

§§ 765.254–765.300 [Reserved]

Subpart G—Disposal of Chattel Security

§ 765.301 General.

(a) The borrower must account for all security.

(b) The borrower may not dispose of chattel security for an amount less than its market value. All proceeds, including any amount in excess of the market value, must be distributed to lienholders for application to the borrower's account in the order of lien priority.

(1) The Agency considers the market value of normal income security to be the prevailing market price of the commodity in the area in which the farm is located.

(2) The market value for basic security is determined by an appraisal obtained in accordance with § 761.7 of this chapter.

(c) When the borrower sells chattel security, the property and proceeds remain subject to the Agency lien until the lien is released by the Agency.